



COMMONWEALTH OF KENTUCKY
KENTUCKY AGRICULTURAL FINANCE
CORPORATION

Request for Proposals (RFP)

Project Name: Processing Facility with Temperature-
Controlled Storage
3-Year Lease with Purchase Option
Owensboro, Kentucky

RFP Number: 081506

IMPORTANT: PROPOSALS MUST BE RECEIVED BY
4:30 PM EDT, OCTOBER 2, 2006

Return Proposals to:

Kentucky Agricultural Finance Corporation
Attn: Joel Neaveill
404 Ann Street
Frankfort, KY 40601
Phone (502)564-4627

Table of Contents

I.	Introduction	4
II.	Location and Description of the Facility	4
III.	RFP General Procedural Information	6
	A. Inquiries	6
	B. RFP Addenda	6
	C. Deadline for Submitting Proposals	7
	D. Bidder Responsibility for Proposal Submittal	7
	E. No Prior Commitment or Obligation of the Commonwealth	7
	F. Issuing office	8
	G. Proposal Guaranty	8
IV.	Terms and Conditions	8
	A. General	8
	B. Warranty of Suitability	9
	C. Lease-Purchase Agreement	9
	D. Lease Payments, Records and Reports	10
	E. Prohibited Uses of the Facility	10
	F. Alterations/Renovations to Facility	11
	G. Maintenance Responsibilities	11
	H. Utilities	13
	I. Taxes	13
	J. Insurance	13
	K. Liens Against the Facility	13
	L. Subleasing, Assignments, or Transfers of Successful Bidder's Interest	14
	M. Hold Harmless	15
	N. Attorney's Fees	15
	O. Notices	15
	P. Offer of Gratuities	15
	Q. Conflict of Interest	15
	R. Protection of Property, Employees and Public	16
	S. Employment Practices	16
	T. Permits and Licenses	17
	U. Right of Entry	17
	V. Events of Default	17
	W. Termination of Agreement	17
	X. Procedure on Termination	18
	Y. Force Majeure	18
	Z. Conflict of Law and Choice of Law Provision	19
AA.	Waiver	19
V.	Proposal	19
	A. Evaluation of Proposals	19
	B. Receipt and Distribution of Proposals	20
	C. Initial Point scoring of Proposals	20

D. Interviews with Top Three Bidders	21
E. Submission of Proposal	21
F. Withdrawal of Proposal	22
G. Proposal Subject to RFP Terms	22
H. The Bidder's Proposal Shall Include the Following Sections	22
1. Transmittal Letter	22
2. Proposed Use of Facility	23
3. Financial Background of Bidder and Proposed Method of Financing	23
4. Corporate/Business Background and Experience	24
5. Certified or Cashier's Check	24
6. Proposed Rental Payment and Option Purchase Price	24
Rental Payment and Option Purchase Price Form	25
VI. Authentication of Bid and Affidavit of Non-collusion and Non-conflict of Interest	26
VII. Notice	27
VIII. Sworn statement pursuant to KRS 45A.485	28
IX. Sworn statement pursuant to KRS 45A.110	29
Exhibit A - Description of Property	31

I. INTRODUCTION

The Kentucky Agricultural Finance Corporation (KAFC), a *de jure* municipal corporation and political subdivision of the Commonwealth of Kentucky, desires to lease an approximately 56,000 square foot facility (including 12,500 of covered, open space) (the Facility) in Owensboro, Kentucky. The Facility was previously owned by the West Kentucky Grower Cooperative, Inc., a cooperative of area farmers engaged in fresh-market vegetable production. The Facility now is owned in fee simple exclusively by KAFC and is free of any lien or encumbrance. KAFC is soliciting proposals from parties interested in reopening the Facility and engaging in activities that will benefit Kentucky farmers.

The desired objective is a three-year lease agreement commencing January 1, 2007, with an option to purchase at the end of the lease. Each Bidder will include in its proposal the specified lease payment and proposed purchase price for the facility. While the Facility was built for purposes of vegetable sorting, storing and shipping, proposals need not be specifically related to the production of fruits and vegetables. The benefit to Kentucky farmers can be associated with the production of any agricultural commodity.

Based on the detailed requirements, terms and conditions set forth in this Request for Proposals (RFP) document, KAFC, on behalf of the Commonwealth herewith solicits proposals from prospective operators who can demonstrate the necessary capability to operate a successful agribusiness venture at the Facility during the lease period, while at the same time benefiting Kentucky farmers, particularly farmers from the counties near the Facility.

II. LOCATION AND DESCRIPTION OF THE FACILITY

Being offered for a three year lease with an option to purchase is improved property located on approximately 10.02 acres of land located at 806 Kentucky Highway 279 North, approximately three-fourths mile from US Highway 60, in western Daviess County, Kentucky. Owensboro, the County seat, is approximately 7.4 miles east of the Facility's location. Owensboro is the third largest city in the Commonwealth of Kentucky.

Two-thirds of the U.S. population is within one-day's drive from Owensboro-Daviess County. The community is surrounded by an excellent highway system and is also centrally located to many of the largest metropolitan areas in the mid-west and south. Owensboro is located 32 miles east southeast of Evansville, Indiana; 123 miles north of Nashville, Tennessee; 109 miles west southwest of Louisville, Kentucky; 203 miles southeast of St. Louis, Missouri; and 205 miles southwest of Cincinnati, Ohio. The Audubon and William Natcher parkways as well as U.S. Highways 60, 231 and 431 all provide direct access to Owensboro-Daviess County. A new four-lane bridge provides a direct link to Interstate 64.

More information regarding Owensboro and Daviess County may be obtained at <http://owensboro.com/>.

Improvements consist of two buildings totaling approximately 18,000 and 25,500 square feet, respectively. The two buildings are separated by a 12,500 square foot open covered area previously used for receiving of produce. Approximately 1,350 square feet is finished for office, break room and four restrooms. A 60' X 60' loading area is located at the west side of the larger building, with a dock height of 4 1/2 feet. Portable dock plates were used for loading by the prior owner. Buildings are metal sided and metal roofed all on concrete slab. Ceiling height in most areas is 24 feet at the eaves. The buildings are served by 800 amp 440 volt electric provided by Kenergy, a local rural electric cooperative. Buildings are heated with propane, and sewer is via a septic system. The property is zoned A/R, Rural Agriculture, and is located in a Special Flood Hazard area (#'s 21059CO105 C 3/97 & 210509CO115 C 3/97). The buildings are believed to have been built in stages between 1991 and 1993.

Included with the facility are five coolers, an ice making facility, a hydro cooler, and related refrigeration equipment. Three of the coolers are located in the larger of the two buildings. Two of the coolers, with 4,500 and 3,060 square feet, respectively, are connected with an automatic opening door. There is a modest amount of racking in these coolers. The third cooler, separate but adjacent to the other coolers, contains 1440 square feet and includes racking. The remaining two coolers are located in the smaller building. One cooler, with 4,251 square feet, previously was used for a tray pack line for sweet corn. The other cooler, totaling 2,000 square feet, also contains racking. All racking will remain with the coolers.

The ice making facility is a concrete block structure located at the west side of the larger building. It will not be warranted by KAFC. The hydro-cooler is located in the open covered area between the two buildings. It is believed to have a capacity of 24 bin boxes in a double-bin configuration.

Note that all measurements noted in this RFP are estimates based upon previously presented to KAFC. It shall be the responsibility of each Bidder to verify the exact dimensions.

For any successful Bidder desiring to use the cooling equipment as a part of its operation, except as noted above and unless otherwise noted in addenda to this Request for Proposals, KAFC will assure all refrigeration equipment is operable on the effective date of the Agreement. Maintenance of the fixtures and equipment then will be the responsibility of the successful Bidder. If at any time during the three-year lease period the fixtures and equipment are no longer operable and with the prior written approval of KAFC, the successful Bidder will be able to liquidate the equipment so long as proceeds from liquidation are applied to comparable replacement fixtures and equipment. Costs of replacement fixtures and equipment, after deducting the proceeds of liquidation of old fixtures and equipment, and excluding any labor costs associated with removal of the old fixtures and equipment or installation of the new fixtures and equipment, will be applied against the purchase price of the facility, should the successful Bidder elect to exercise its option to purchase.

Currently there are numerous items of personal property including a mobile home, located on the Facility property. These items are not being offered as a part of this RFP, but will be offered at public auction after the selection of the successful Bidder. All personal property will be removed from the property prior to the effective date of the Lease Purchase agreement described later in this RFP. It is believed that there are two openings in the building through which some of the

processing equipment passes. In the event the successful Bidder does not purchase these items of equipment at auction, the cost of closing these openings will be borne by KAFC.

The Facility will be available for inspection at 10:00 am CDT on September 6, 2006. Contact KAFC at (502) 564-4627 for additional directions to the Facility. Representatives of KAFC will be in attendance at that meeting to show the building to prospective bidders. Any questions relating to the building and equipment will be noted and answered on the day of the inspection, but also will be noted and answered on the KAFC website, <http://kafc.ky.gov/>.

The Daviess County Property Valuation Administrator has an appraised value on the property of one million five hundred thousand dollars (\$1,500,000.00).

The legal description of the property being offered for lease-purchase is attached as Exhibit A to this Request for Proposals.

III. RFP GENERAL PROCEDURAL INFORMATION

A. Inquiries

Contact with Commonwealth and KAFC agents for information specific to bidding procedures and/or regulations, programmatic, technical, or Facility and equipment specifications or location shall be limited to KAFC's RFP Manager. All inquiries must be submitted in writing no later than September 22, 2006 to allow sufficient time for written responses to be answered. Inquiries should be directed to:

Kentucky Agricultural Finance Corporation
Attn: Joel Neaveill, RFP Manager
404 Ann Street
Frankfort, KY 40601

The final official answer or position of KAFC and the Commonwealth of Kentucky on any material points will be ones stated in writing. The questions will be presented anonymously, and will be answered on KAFC's website, <http://kafc.ky.gov/>.

B. RFP Addenda

This RFP may be supplemented or amended at any time by appropriate addenda which will be made available at the KAFC website, <http://kafc.ky.gov/>. It will be the responsibility of each Bidder to go online to the website to obtain any addenda. Addenda may also be necessary after the Receipt Date and will be sent at that time to all Bidders who have submitted a proposal.

C. Deadline for Submitting Proposals

All proposals must be received by 4:30 pm EDT on October 2, 2006. An original copy and nine (9) copies of each Proposal shall be sent to

Kentucky Agricultural Finance Corporation
RFP Review Committee
Attn: Joel Neaveill
404 Ann Street
Frankfort, KY 40601

Facsimile copies will not be considered as viable Proposals under this RFP.

D. Bidder Responsibility for Proposal Submittal

All proposals submitted shall be deemed to have been made with the full knowledge of all of the terms, conditions, provisions, specifications, and requirements contained in this RFP and any addenda thereto.

Each Bidder has the responsibility of delivering their proposal by the time and to the place prescribed in this RFP. Proposals received prior to the closing for receipt of proposals will remain unopened until the time set for opening proposals. Any proposal received after the date and time specified in the RFP shall be rejected and returned unopened to the Bidder. No responsibility will attach to an officer of the Commonwealth or KAFC for the premature opening of a proposal through inadvertence or one not properly addressed and marked.

Neither the proposals nor their contents will be made available for public information or public inspection until such time as the determination of a successful Bidder has been made. Under Kentucky law no proprietary or confidential information that is clearly identified as such in the Bidder's proposal, the release of which is deemed by the Review Committee to be detrimental to the Bidder, will be made public. Any information that will be includable in the Agreement between KAFC and the successful Bidder will become public record upon the execution of the Agreement.

All proposals shall be deemed to be an offer acceptable within a period of one hundred and twenty (120) calendar days after the closing date for receipt of proposals (see Proposal Guaranty, Paragraph G *infra*). Further, all proposals shall be deemed to have been made with full knowledge of all terms, conditions, provisions, specifications and requirements contained in this RFP and any addenda and enclosures thereto.

E. No prior Commitment or Obligation of the Commonwealth

The issuance of this RFP in no way constitutes an expressed or implied commitment by KAFC or the Commonwealth of Kentucky to award a lease, extend an option to purchase, or to pay for the costs incurred in the preparation of a response to this request.

KAFC and the Commonwealth of Kentucky unconditionally reserve the right to withdraw or cancel this RFP and to reject any and all offers at any time and for any reason without recourse.

Receipt of proposal materials by KAFC or the Commonwealth or submission of a proposal to KAFC or the Commonwealth confers no rights upon the Bidder nor obligates KAFC or the Commonwealth in any manner.

No lease-purchase agreement resulting from this RFP shall be binding on KAFC and the Commonwealth until it has been approved by the Board of KAFC and the Secretary, Kentucky Finance and Administration Cabinet.

Where KAFC and the Commonwealth may waive minor irregularities or technicalities, such waiver shall in no way modify the RFP requirements or provisions if the Bidder is awarded the Lease-Purchase.

F. Issuing Office

This RFP is issued by the Kentucky Agricultural Finance Corporation.

G. Proposal Guaranty

1. Bidder's proposal must be accompanied by a certified or cashier's check made payable to the "Kentucky State Treasurer", in an amount equal to the total of the sum of the first quarter's and last quarter's rent as set forth in Paragraph V(H)(5) of this RFP. Certified or cashier's check of the unsuccessful Bidders will be returned immediately. The certified or cashier's check of the successful Bidder will be applied toward the first quarter's and last quarter's rent of the Facility.
2. In the event a Bidder's proposal is accepted and the Bidder shall fail to execute the Agreement within ten (10) calendar days after it receipt by the successful Bidder, KAFC may, at its option, determine that the Bidder has abandoned the project and the amount of the bid security shall be forfeited to KAFC as liquidated damages, and not as a penalty.

IV. TERMS AND CONDITIONS

A. General

The Agreement between KAFC and the successful Bidder shall include as exhibits: (1) the RFP (and any addenda thereto); and, (2) the successful Bidder's proposal submitted in response to the RFP. In the event of a conflict in language between the documents referenced above, the lease proposal provisions and requirements set forth and/or referenced in the RFP shall govern. All written addenda and supplements shall take precedence over the documents they modify.

In the event that an issue is addressed in one document that is not addressed in the other document, no conflict in language shall be deemed to occur. However, KAFC and the Commonwealth reserve the right to clarify any lease relationship in writing with the concurrence of the successful Bidder, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the successful Bidder's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

No modification or change of any provision in the Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the successful Bidder, KAFC and the Commonwealth and processed as a written amendment to the lease through and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change. Memoranda of Understanding and correspondence shall not be construed as amendments to the lease.

The Agreement shall be construed and interpreted according to the laws of the Commonwealth of Kentucky. Any legal proceedings against the Commonwealth regarding this RFP or any resultant lease shall be brought in Commonwealth of Kentucky administrative or judicial forums. Venue will be in Franklin County, Commonwealth of Kentucky.

B. Warranty of Suitability

Unless otherwise noted in this RFP neither KAFC nor the Commonwealth makes any guaranty or warranty, either expressed or implied, with respect to the property. The Bidder is expected to have examined the property and to have formed his/her own conclusions as to its suitability of the property for the stated purposes.

C. Lease-Purchase Agreement

The successful Bidder will enter into the Agreement with KAFC and the Secretary of Finance and Administration on behalf of the Commonwealth. The Agreement will commence on January 1, 2007. The lease will expire on December 31, 2009.

All the provisions of said Agreement and contract shall be binding upon all parties. The successful Bidder shall abide by all rules and regulations, which may be promulgated by federal and state and local laws in connection with the use of the premises.

The Agreement will specify the quarterly lease payment due to KAFC. There is a minimum lease payment of \$6,000.00 per year which will include the cost of casualty insurance premium for the real property and fixtures.

The Agreement will specify the purchase price of the Facility should the successful Bidder elect to exercise the option at the end of the lease term. In the event the successful Bidder elects to purchase the Facility, it shall notify KAFC and the Commonwealth of its intention to purchase no less than ninety (90) days prior to the expiration of the Agreement. Both parties will attempt to close the sale of the Facility by December 31, 2009, or as close to that date as is reasonably possible.

D. Lease Payments, Records and Reports

Lease payments will be made quarterly by the tenth day of each of the months of January, April, July, and October. The payments will be prospective for each calendar quarter, with the understanding that the payments for the quarters beginning January 1, 2007 and October 1, 2009, will be submitted with the successful Bidders proposal. The amount of each lease payment will be outlined in the Agreement, consistent with the successful Bidder's proposal.

Lease payments will be made payable to Kentucky State Treasurer, and will be remitted to:

Kentucky Agricultural Finance Corporation
404 Ann Street
Frankfort, Kentucky 40601

Funds also may be remitted via electronic fund transfer. The successful Bidder wishing to use this option will be provided with the necessary forms and information concurrent with the execution of the Agreement.

The successful Bidder is required to keep complete and accurate financial records relating to the Facility and to maintain such additional records, as established in the Agreement, deemed necessary by KAFC and the Commonwealth to adequately reflect the operations conducted on the leased premises. The successful Bidder further covenants that annually, no later than February 1 the successful Bidder shall provide to KAFC a detailed report of how the successful Bidder has benefited Kentucky farmers in the preceding calendar year.

The report shall include but not be limited to the following information: (1) a listing of the name and address of each Kentucky farmer from whom commodities have been purchased, and the amount paid to each farmer for those commodities; (2) number of acres under contract listed by producer name; (3) amount of funds expended by successful Bidder that indirectly benefited Kentucky farmers; (4) estimated impact on Kentucky's agricultural economy.

KAFC will make random checks of the producers listed on the annual reports to assure the reports' veracity.

E. Prohibited Uses of the Facility

The successful Bidder shall not use the Facility for any purposes other than those identified in the Bidder's proposal in response to this RFP. Further the successful Bidder shall not store fuel at the Facility except in above-ground tanks meeting all Federal, state and local requirements.

The successful Bidder shall not engage in any activity at the Facility that is in violation of federal state or local law, ordinance or regulation. The Bidder shall be responsible for obtaining all necessary regulatory agency approvals (federal, state and local) for any permits required to conduct business at the Facility.

F. Alterations/Renovations to Facility

The Bidder shall make no alterations to the facilities or other capital improvements, including interior décor, without first submitting a schematic drawing of its proposed changes and obtaining prior written approval of KAFC and the Finance and Administration Cabinet.

All construction/development plans shall be submitted to and must have the prior approval of the Finance and Administration Cabinet and KAFC before construction/development is commenced. The drawings and the specification shall be stamped with the registration seal of the professional involved with the design. These plans shall also include plans for interior décor and exterior landscaping. Any planned facilities shall substantially conform to the current constructions located at the Facility.

When required by state law, construction/development plan approval must be obtained from the Kentucky Department of Housing, Building and Construction. All fees shall be the responsibility of the Bidder. This regulatory agency will review drawings for plumbing, fire marshal compliance, ADA accessibility, and Kentucky Building code regulations. Proof of this approval must be provided to the Department for Facilities and Support Services and KAFC prior to commencement of construction and operation. Upon completion, copies of all permits and certificates shall be submitted to the Finance and Administration Cabinet and KAFC, along with “as built” plans.

KAFC may also make compliance inspections to ensure that the facility is being constructed, operated, maintained and furnished in a manner that provides a safe and healthy environment for the public. This inspection will also ensure that preventative maintenance is being performed that will extend the life and usability of the facilities to its maximum potential. Inspection reports will be prepared with a definite deadline for correction of any stated deficiencies. Maintenance is an important aspect of the resulting Lease and any failure to comply by the Successful Bidder with any maintenance provision shall be ground for termination of the Agreement by reason of default, according to Paragraph V Infra.

The buildings, grounds, and Bidder-owned equipment shall be kept in good condition. The buildings and grounds shall be maintained by the Successful Bidder, and the Successful Bidder shall ensure compliance with applicable laws concerning building conditions, sanitation, safety and health (including, without limitation, OSHA regulations). The successful Bidder agrees that any modifications or alterations to the workplace or the building and grounds (whether structural or non-structural) necessary to comply with any statute or governmental regulation shall be the responsibility of the successful Bidder and shall be at the successful Bidder’s sole expense.

G. Maintenance Responsibilities

The successful Bidder, at its sole expense, shall be responsible for the proper care and custody of any KAFC real property or fixtures or equipment furnished for successful Bidder’s use in connection with the performance of the Agreement. This responsibility includes the repair and/or replacement due to loss, damage, or negligence, normal wear and tear excepted.

The successful Bidder shall do those acts necessary to (1) maintain the property in a reasonably attractive, clean, efficient, and safe condition; (2) prolong the useful life of the property, and (3) cause the property to be in conformity with all federal, state, and local regulatory standards.

The successful Bidder also shall be responsible for following maintenance duties:

1. The Bidder, at its sole expense, shall pick up and provide for a complete and proper arrangement for the adequate handling and disposal, away from the Facility, of all trash, garbage, and other refuse caused as a result of any renovation to the Facility or operation of its business. Bidder shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse. Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Facility, shall not be permitted.
2. The Bidder shall be responsible, at its own expense, for repair and maintenance of the Facility and all equipment identified as a part of the Agreement. This maintenance responsibility includes mowing grass and snow removal in and around private sidewalks, landscaping and/or parking lots.
3. The Bidder shall assume responsibility for all existing facilities, including any labor, equipment, and supplies, on the commencement date of the Agreement. Any improvements to the Facility during the lease term will be at the successful Bidder's expense and only with the approval of KAFC and the Commonwealth. The Bidder, at its sole expense, shall be responsible for all rebuilding, restoration and replacement of the Facility property necessitated by casualty resulting from the negligence or intentional act of the Bidder, its agents or employees.
4. In addition to the aforementioned maintenance responsibilities of the Bidder and during the term of the Agreement the Bidder, at its sole expense, shall keep any and all existing and proposed buildings, structures, and other improvements, located at the Facility, both interior and exterior, and all equipment and personal property within said buildings and structures in good repair, and not suffer or permit any waste to be committed or anything to be done on the leased premises that would constitute a nuisance.

KAFC and the successful Bidder shall annually inspect the property together by January 31 of each year (1) to determine whether the successful Bidder is in conformity with the provisions of this section, and (2) to specify what act or acts are necessary to conform with the provisions of this section. As soon thereafter as practicable, KAFC shall provide to the successful Bidder a written inspection report detailing the findings and recommendations pertaining to maintenance. The successful Bidder shall have thirty (30) days following receipt of KAFC's report to either (1) complete the maintenance recommendations made by KAFC or (2) present a written plan, for approval by KAFC, which details the actions to be taken in order to correct any maintenance deficiencies including an anticipated completion date. In the event the successful Bidder fails either to (1) complete the maintenance recommendations made by the Commonwealth within thirty (30) days, or (2) submit a reasonable plan within thirty (30) days together with a projected date of completion by which to accomplish those maintenance recommendations made by KAFC, and to complete such plan of maintenance as agreed, unless good cause be shown for

delay, then KAFC may enter upon the property and do that which is necessary to maintain or repair the property. The successful Bidder shall indemnify and hold harmless KAFC and the Commonwealth from all costs and expenses of any such maintenance accomplished by KAFC.

H. Utilities

It shall be the responsibility of the Bidder to provide and pay for all utilities for the operation of the Facility. Payment of all utilities for operation of the Facility will be the responsibility of the successful Bidder and will be placed in the name of the successful Bidder.

I. Taxes

The successful Bidder shall be responsible for paying all state, federal, and local taxes, including but not limited to, ad valorem property taxes assessed against the Facility and the operations conducted on the leased premises.

J. Insurance

Liability Insurance. The successful Bidder will be required to obtain, from a reputable insurance company authorized to do business in the Commonwealth, and obtain and keep in force, at successful Bidder's own expense, a commercial general liability insurance policy providing minimum combined single limits coverage of \$1,000,000.00 per occurrence, and having an aggregate annual limit of not less than \$1,000,000.00, with an umbrella of \$5,000,000.00 per occurrence and an annual aggregate limit of \$5,000,000.00. Said insurance shall name KAFC and the Commonwealth as additional insured and shall also provide that said policy shall not be subject to cancellation, termination, or change without at least thirty (30) days prior written notice to KAFC. Successful Bidder must furnish a copy of its insurance policy to KAFC prior to commencement of operations, and on an annual basis thereafter for the full term of the lease.

Casualty Insurance. Throughout the term of the leasing arrangement, KAFC and the Commonwealth will maintain casualty insurance on the Facility. The successful Bidder will be required to maintain an independent policy for personal property owned by successful Bidder, such as contents, equipment, and inventory. Any increase or decrease to this premium payment will modify the minimum lease payment; provided, however, that KAFC shall provide a 60 day notice of change in the minimum lease payment. Said insurance shall name the successful Bidder as additional insured.

Successful Bidder must furnish a copy of its casualty insurance policy to KAFC prior to commencement of operations, and on an annual basis thereafter for the full term of the lease.

K. Liens Against the Facility

Nothing in the Agreement shall in any way be deemed or construed as constituting an order or request by KAFC or the Commonwealth, expressed or implied, to any contractor, sub-contractor, supplier, material-man, or laborer for the performance of any labor or the furnishing of any materials for the maintenance of any improvements on, alterations to, or other improvements of the Facility; nor as giving the successful Bidder any right, power, or authority to grant for or permit the rendering of any services or furnishings of any materials that would give rise to the

filing of any mechanic's liens against KAFC's and the Commonwealth's property or the successful Bidder's leasehold interest therein.

Furthermore, during the term of the lease under the Agreement the successful Bidder shall not suffer or permit any mechanic's or material-man lien to be filed against KAFC's and the Commonwealth's property or the successful Bidder's leasehold interest in the leased premises by reason of work, labor, services, or materials supplied to or claimed to be supplied to the successful Bidder. If a mechanic's or material-man's lien shall be filed against the leased premises or the successful Bidder's leasehold interest at any time, the successful Bidder shall cause the same to be discharged within thirty (30) days after the notice of filing thereof by payment, deposit, bond, an Order of a Court of competent jurisdiction or otherwise. If the successful Bidder, in good faith, disputes the validity or correctness of any such lien, then it may refrain from paying or causing the same to be discharged of record, but it shall diligently proceed to initiate and conduct appropriate proceedings to determine the correctness or validity of such lien. The successful Bidder shall not be deemed to be in default under the Agreement while such proceedings or litigation are being conducted in good faith by it. However, if the successful Bidder fails to cause any such lien to be discharged within the period aforesaid, or fails to contest the same as provided above, then the successful Bidder shall be deemed to be in default of the Agreement which shall be a basis for termination of said Agreement.

Furthermore, during the term of the lease under the Agreement the successful Bidder shall not offer the Facility or any equipment located at the facility owned by KAFC and the Commonwealth as collateral for any loan, lease, or other financing transaction or financial obligation of the successful Bidder. The presence of any lien against the Facility and equipment owned by KAFC and the Commonwealth shall constitute an event of default of the Agreement and shall be a basis for termination of said Agreement, pursuant to Paragraph IV(W) of this RFP.

L. Subleasing, Assignments, or Transfers of Successful Bidder's Interest

During the course of the lease under the Agreement, the successful Bidder shall not voluntarily, involuntarily, or by operation of law assign, subletting, or transfer the Agreement or any interest created therein to any other person, partnership, corporation, or other entity without first notifying and obtaining the prior written consent of KAFC and the Commonwealth. Any attempt to assign, sublet, or transfer the Agreement or any interest created therein without such consent shall be void. If an assignment, sublet, or transfer of the Agreement is made with the consent of the Commonwealth, the successful Bidder shall not be relieved from payment of all rent according to the terms of the Agreement or from the performance of all other terms, covenants, and conditions of the Agreement. If consent is once given by KAFC and the Commonwealth to any such assignment, or subletting, such consent shall not operate as a waiver of the necessity for obtaining KAFC's and the Commonwealth's consent to any subsequent assignment, or subletting. Furthermore, any change in the successful Bidder's business status (i.e., partnership, corporation) should be reported to the KAFC immediately.

No assignment, subletting, transfer of successful Bidder's interest in the property shall be effective or binding against KAFC and the Commonwealth until such time as the assignee, KAFC, and the Commonwealth execute an amendment to the Agreement reflecting such transfer.

M. Hold Harmless

The successful Bidder shall indemnify and hold harmless KAFC and the Commonwealth from any and all claims, demands, damages, actions, costs (including attorney fees), and charges which KAFC and the Commonwealth or the successful Bidder may have to pay by reason of injury to any person or property or loss of life or property resulting from or in any way connected with the character, condition, or use of the leased premises or any means of ingress thereto, or egress there from, or resulting from the successful Bidder's operations on the leased premises, unless such injury or loss arises directly from the negligence of KAFC or the Commonwealth, any of their departments or agencies, or officers or employees while acting within the scope of their employment.

The successful Bidder shall, at its own expense, assume defense of such claims and actions for damages arising out of such injuries or losses which may be brought against the Commonwealth by third person; and shall pay such judgments that may be rendered in such actions, unless such claims or actions for damages and/or judgments arise directly from the negligence of KAFC or the Commonwealth, any of its departments or agencies, or any of its officers, agents, or employees while acting within the scope of their employment.

N. Attorney's Fees

In the event that either party deems it necessary to take legal action to enforce any provision of the lease, and in the event KAFC and the Commonwealth prevail, the successful Bidder agrees to pay all expenses of such action, including attorney's fees and costs at all states of litigation as set by the court or hearing officer.

O. Notices

After lease award, all notices under this lease shall be either mailed by registered or certified mail addressed or hand-delivered to the receiving party. The customary receipt shall be conclusive evidence of such service.

P. Offer of Gratuities

By submission of a proposal, the successful Bidder certifies that no member or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. The Agreement arising from this procurement may be terminated by the Commonwealth if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the successful Bidder, its agent, or employees.

Q. Conflict of Interest

No official or employee of the Commonwealth, and no other public official of the Commonwealth of Kentucky or the federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall,

prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the lease or proposed lease.

The successful Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The successful Bidder further covenants that in the performance of the Agreement, no person having any such known interests shall be employed. The successful Bidder certifies that by entering into the Agreement resulting from this RFP with KAFC and the Commonwealth of Kentucky and that by holding and performing the Agreement, the successful Bidder will not be violating either any conflict of interest statute (KRS 45A.330 - 45A.340, 164.390), or KRS Chapter 11A, the Executive Branch Code of Ethics, or any other applicable statute or principle by the performance of the Agreement, nor will said bidder realize any unlawful benefit or gain directly or indirectly from it. Non-compliance may result in termination of the resulting Agreement.

R. Protection of Property, Employees, and Public

The successful Bidder shall continuously maintain adequate protection of KAFC's and the Commonwealth's property from injury or loss arising in connection with the Agreement. Successful Bidder shall make good any such damage, injury, or loss. Successful Bidder shall adequately protect adjacent property as provided by law and the lease documents.

The successful Bidder shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of the Kentucky Worker's Compensation laws and all federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The successful Bidder shall designate a responsible member of his/her organization on the work as safety officer, whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to KAFC upon the successful Bidder's written notification to commence operations at the Facility or the date the Agreement is fully executed, whichever date is earlier.

S. Employment Practices

The successful Bidder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The successful Bidder must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training including apprenticeship. The successful Bidder agrees to post in conspicuous place available to employees and applicants for employment, notices setting forth the provisions of this clause.

The successful Bidder shall, in all solicitations or advertisements for employees placed by or on behalf of the successful Bidder, state that all qualified applicants will receive consideration for

employment without regard to race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability, except where it relates to a bona fide occupational qualification.

T. Permits and Licenses

The successful Bidder shall procure all necessary permits, licenses, and certificates which are required by state and local laws, and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments.

U. Right of Entry

The right is hereby reserved to KAFC and the Commonwealth of Kentucky, its officers, agents, and employees to enter upon the leased premises at reasonable times to inspect the premises, operation, and equipment, or for any purposes in connection with work necessary to the benefit of KAFC or the Commonwealth.

V. Events of Default

Failure to carry out any term or condition of the Agreement shall constitute an event of default. This shall include, but not be limited to (1) failure to provide benefit to the number of Kentucky farmers enumerated in the successful Bidder's proposal, or (2) failure to provide to the Kentucky agricultural economy the specific amount of monetary benefit enumerated in the successful Bidder's proposal.

W. Termination of Agreement

The Agreement resulting from the RFP shall be subject to the following termination provisions:

1. Termination for Default. If at any time during the period in which the proposed Agreement is in effect, the successful Bidder, in the opinion of KAFC and the Commonwealth, defaults on any obligation incurred hereunder, including, but not limited to, the payment of rental due the KAFC and the Commonwealth or the failure to maintain standards of service required or in any manner fails to provide adequate service to the public, then the Agreement shall be subject to termination by KAFC and the Commonwealth, with no right of recourse remaining in the successful Bidder. All rights and benefits herein conferred shall be deemed forfeited, and the successful Bidder shall quietly surrender possession of the demised premises to the KAFC and the Commonwealth; provided, however, that before any termination shall occur under this section, the successful Bidder shall be given written notice and be allowed thirty (30) days from receipt of notice in which to cure such default or non-compliance. If said default or non-compliance is cured within the above time period, then the Agreement shall remain in full force and effect. In the event of termination for default, the successful Bidder shall be responsible for paying to KAFC and the Commonwealth any monetary sum due, up to and including the date of termination.

2. Termination by mutual consent. At any time after December 31, 2007 all parties to the Agreement may, by mutual consent, terminate the Agreement.

The various rights, options, elections, powers, and remedies contained in the Agreement shall be construed as cumulative and not one of them shall be exclusive of any of the others, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations upon the other party have been fully performed.

X. Procedure on Termination

Upon delivery by certified mail to the successful Bidder of Notice of Termination specifying the nature of the termination, the extent to which performance of service under the Agreement is terminated and the date upon which such termination becomes effective, the successful Bidder shall stop service under the Agreement on the date indicated and to the extent specified in the Notice of Termination. Then, and in any of such cases, immediately or at any time thereafter, at its option, KAFC and the Commonwealth shall have the right to immediately reenter and take possession of the properties, and, as KAFC and the Commonwealth elects, either:

- (1) Declare the Agreement to be terminated, in which event the Agreement, all rights of the successful Bidder, and all duties of KAFC and the Commonwealth shall immediately cease and terminate and KAFC and the Commonwealth may possess and enjoy the properties as though the Agreement had never been made, without prejudice, however, to any and all rights of action against the successful Bidder KAFC and the Commonwealth may have for rent, damages, or breach of covenant, in respect to which the concessionaire shall remain and continue liable notwithstanding such termination; or,
- (2) Re-let the properties, or any part thereof, for such term or terms and on such conditions as KAFC and the Commonwealth determine for and on behalf of the successful Bidder, for the highest rental reasonably obtainable in the judgment of KAFC and the Commonwealth, which re-letting shall not be considered as a surrender or acceptance back of the properties or a termination of the Agreement, and recover from the successful Bidder any deficiency between the amount of rent, additional rent and all other charges payable under the Agreement, plus any expenses incurred by KAFC and the Commonwealth in connection with repairs, or alterations KAFC and the Commonwealth deem necessary or appropriate to make in connection with such re-letting, all costs incurred in actually re-letting the properties, and sums expended for reasonable attorney's fees; but KAFC and the Commonwealth shall be under no duty to re-let the properties.

Y. Force Majeure

The successful Bidder shall not be liable to KAFC and the Commonwealth if failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the successful Bidder. Such causes may include, but are not restricted to, acts of God, fire, quarantine restrictions, strikes, and freight embargoes. In all cases, the failure to perform must

be beyond the control and without fault or negligence of the successful Bidder. The successful Bidder shall take all possible steps to recover from such occurrences.

Z. Conflict of Law and Choice of Law Provision

It is agreed by the parties hereto that all questions as to the execution, validity, interpretation, construction, and performance of the resulting Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of said Agreement shall be filed with the Franklin County Circuit Court of the Commonwealth of Kentucky.

Further, the successful Bidder agrees to maintain its current level of assets, as defined in above paragraph and as will be described in the resulting Agreement, as will be existing as of the effective date of the resulting Agreement and, shall thereafter, not remove said assets from the Facility, nor allow the current level of assets to diminish, without prior written approval from the Commonwealth.

AA. Waiver

The waiver by KAFC and the Commonwealth, or failure of KAFC and the Commonwealth to take action with respect to any breach of any term, covenant, or condition herein contained or contained in the resulting Agreement, shall not be deemed to be a waiver of the same or any other term, covenant, or condition contained herein.

V. PROPOSAL

A. Evaluation of Proposals

KAFC will conduct a comprehensive evaluation of proposal(s) received in response to the RFP. This evaluation will be conducted by a review committee (the Committee), which may be comprised of representatives from: the KAFC Board; the Kentucky Agricultural Development Board; staff members of the Governor's Office of Agricultural Policy; the Finance and Administration Cabinet; and, other resource agencies' representatives, as appropriate. Items to be given specific attention during the evaluation process are as follows:

- The Bidder's proposed use of the Facility.
- The Bidder's proposed benefit to Kentucky farmers.
- The Bidder's proposed rental payment to KAFC.-
- The Bidder's option purchase price for the Facility.
- The financial background of the Bidder including, but not limited to, the Bidder's ability to provide financing sufficient to carry out the proposed plan of operation.
- Background and experience of the Bidder.

The above criteria are explained in more detail in the following segments of this Proposal section of the RFP. **The successful Bidder's proposal documents will become a part of the Agreement. All items listed must be thoroughly addressed in your written proposal.**

Please include an original, signed copy and nine (9) complete copies of proposal documents and all attachments with your submittal.

B. Receipt and Distribution of Proposals

The packaging containing each Proposal shall be date and time- stamped upon its receipt. All proposals received by the RFP deadline stated in Paragraph III(C) of this RFP shall remain unopened until after the deadline.

Any proposal received after the deadline state in Paragraph III(C) shall be returned to the respective Bidder, unopened.

Each proposal received on a timely basis shall be opened and shall be checked to assure that all transmittal items in required in Paragraph V(G) have been addressed. Any proposal failing to meet the transmittal requirements of Paragraph V(G) may be returned to the respective Bidder.

All proposals received by the RFP deadline date, and meeting the transmittal requirements of this RFP will be forwarded on the each member of the Committee for review and scoring in the manner set forth in Paragraph V(C) and Paragraph V(D) of this RFP.

Each Committee member will review and score all proposals, but will conduct the review and scoring independently of any other Committee member. After the preliminary scoring established in Paragraph V(C), each Committee member will submit his/her score to a third party, who will not be a member of the Review Committee, for tabulation. The third party will tally all preliminary scores and notify the Committee of the top three scoring Bidders. After the Bidder interviews set forth in Paragraph V(D) each Committee member will the score each of the top three Bidder's proposals, and submit his/her score to the third party for tabulation. Scores will not be revealed to Committee members until after all scores have been tabulated and the successful Bidder contacted.

C. Initial Point Scoring of Proposals

The Review Committee initially will evaluate each proposal based exclusively upon the material submitted. The evaluation of proposals will involve the point scoring of each proposal into six (6) areas. A maximum of 100 points will be available for each proposal as follows:

Proposed use of Facility	10 points
Benefit to Kentucky farmers	30 points
Bidder's proposed <i>lease</i> payment for the Facility to KAFC	10 points
Bidder's proposed purchase price for the Facility	10 points
Ability to sufficiently finance the proposed plan of operation as evidenced by Bidder's financial statements	25 points
Background and experience of the Bidder	15 points

This evaluation will be done by Committee members separately and not at a meeting of the Committee.

D. Interviews with Top Three Bidders

Based upon the results of the preliminary scoring of all Proposals, the Review Committee will invite the top three scoring Bidders to evaluate the financial capacity and managerial ability of each Bidder as well as to answer any questions presented by the Review Committee regarding the use of the Facility or proposed payment to KAFC.

KAFC will notify the top three Bidders no later than October 16, 2006. The Committee will conduct interviews with the top three Bidders on October 24, 2006 in Frankfort, Kentucky, at a location to be determined.

During the interview process, each Bidder will be expected to further explain his/her business plan of operation for the Facility and specifically how the proposed plan of operation may benefit Kentucky producers. **The Bidder will not be allowed to present any new documentation during the interview process, but must rely solely on the documentation provided with the original proposal.** The Committee may ask questions of the Bidder to clarify certain points in the Bidder's proposal.

Each Bidder will be evaluated and scored after its respective interview. A maximum of 100 points will be available for the interview as follows:

Ability to carry out Bidder's proposed operation of Facility	35 points
Financial background of Bidder and ability to sufficiently finance the proposed plan of operation	30 points
Background and experience of the Bidder and individuals involved in day-to-day management of the Facility	25 points
Benefit to Kentucky Farmers	10 points

Although the Committee members will meet together for the interview process each Committee member will evaluate and score each of the top three bidders separately and at a time different from the actual interviews.

The successful Bidder will be the one of the top three Bidders receiving the most points from the interview score.

E. Submission of Proposal

It will be the duty of each Bidder to see that its proposal is delivered by the time and at the place prescribed in this RFP. Proposals received prior to the closing of receipt of proposals will be securely kept, unopened, until the time set for opening proposals. The officer whose duty it is to open them shall decide when the specified time has arrived, and no proposal received thereafter will be considered. No responsibility will attach to an officer for the premature opening of a proposal through inadvertence or one not properly addressed and marked. E-mail, and facsimile proposals will not be considered, but modifications by e-mail, or facsimile of proposals already submitted will be considered, **if received prior to the time set for opening the proposals.** There will not be a public bid opening.

Neither the proposals nor their contents shall be made available for public information or inspection until such time as an award of a lease is made.

F. Withdrawal of Proposal

Proposals may be withdrawn on written or telegraphic requests received from the Bidder prior to the time fixed for opening. Proposals may not be withdrawn for a period of one hundred and twenty (120) calendar days after the closing date for receipt of proposals. Negligence on the part of the Bidder in preparing his proposal confers no right to withdraw his proposal after it has been opened.

G. Proposal Subject to RFP Terms

All proposals submitted shall be deemed to have been made with full knowledge of all terms, conditions, and requirements contained in this RFP and enclosures thereto.

H. THE BIDDER'S PROPOSAL SHALL INCLUDE THE FOLLOWING SECTIONS:

1. Transmittal Letter

The transmittal letter shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the Bidder. This signed letter will legally bind the Bidder. It shall include:

- a. A statement indicating if the Bidder is a corporation, sole proprietorship, or partnership or other legal entity.
- b. A statement that the Bidder is registered to do business in Kentucky, as well as any other documents required by law and the regulations of the Commonwealth of Kentucky prior to commencement of work.
- c. A statement identifying all addenda to the RFP issued by KAFC and received by the Bidder. If no addenda have been received, a statement to that effect should be included.
- d. A statement that the Bidder's proposal meets all requirements, provisions, specifications, terms, and conditions set forth in the RFP, or in the alternative, an explanation of any deviation from such terms and conditions, specifications, requirements, or provisions. KAFC and the Commonwealth reserve the right to reject any proposal containing such deviations or as to require modifications before acceptance.
- e. Attached to the transmittal letter evidence from the Kentucky Secretary of State that the Bidder is in good standing and duly authorized to transact business in Kentucky. Should the Bidder's proposal include the use of subcontractors and suppliers, the Bidder should attach to the transmittal letter evidence that the primary Bidder has verified from each of its proposed subcontractors and suppliers that each is a viable, ongoing business entity, and is capable of performing its obligations to the prime contractor and its subs, and that each has supplied (or will supply prior to acceptance of the contract) evidence of "good standing" with the Kentucky Secretary of State.
- f. A statement that the Bidder's proposal shall remain valid for one hundred and twenty (120) calendar days after the closing date for the receipt of proposals.

2. Proposed Use of Facility

- a. A general narrative description of the proposed use of the Owensboro Facility, including a time schedule, operation date, list of additional personal property and inventory to be included with the Bidder's operation. Also include any proposed modifications planned for the Facility. **The narrative must contain a statement of how the proposed activities for the Facility will benefit Kentucky farmers, including but not limited to: number of acres and number of farmers proposed to be benefited; number of local farmers proposed to be hired at the Facility; and, financial projections indicating potential income opportunities to be offered Kentucky farmers.**
- b. Describe management structure/organization proposed for the Facility; identify management personnel by name, if selected, titles; and show how management staff will interact with each other and with Kentucky farmers in managing the facilities. Additionally, the Bidder is to indicate the number of staff and categories of work to be utilized in operation and maintenance of the Facility.
- c. Explain how the Bidder will do business with Kentucky farmer. Include proposed payment terms, and, if applicable, copies of sample agreements the Bidder may use with the grower.

3. Financial Background of Bidder and Proposed Method of Financing Project The Bidder shall provide:

- a. A financial statement for each of the last three (3) years must be provided for the applicable legal entity submitting a proposal. This statement should, at a minimum, list all assets and liabilities and be certified by a registered Certified Public Accountant (CPA) who is not an officer of the company or individual submitting the proposal. Bidder should also include a statement of changes in financial position of the business entity within the last three (3) years. If the Bidder is a new entity incorporated for the purposes of operation of the Facility, then Bidder must provide individual income tax records, for each of the last three (3) years, for each person owning at least twenty percent (20%) of the new entity.
- b. A current (un-audited) financial statement.
- c. Bank references for the company shall be provided, including name, address, and current telephone number of the given financial institution. This should include a signed authorization for release of financial information from each bank listed.
- d. References from farmers and growers with whom the Bidder has had prior purchasing experience.
- e. A description of the proposed financing plan to carry out the Bidder's proposed operation of the Facility, including, but not limited to, source of credit, terms of credit, and repayment schedule. Source of credit will identify credit for any

building renovation as well as long-term financing of equipment additions and short-term operating capital requirements.

4. Corporate/Business Background and Experience. The private background and experience section shall include from the Bidder details of the background of the company:
 - a. Date established
 - b. Ownership (public company, partnership, subsidiary, etc.)
 - c. Company resources, details of company experience relevant to the proposed development
 - d. If any, similar facilities currently or previously managed by the company

(Note: If the proposal is submitted by an individual, the same type of information will be required.)

5. Certified or Cashier's check. A check in the amount equal to the sum of the first and last quarters' rent as required by Paragraph III(G) of this RFP.
6. The proposed quarterly rental payment and the proposed option purchase price, to be submitted on the form found at page 25 of this RFP.

Should the proposal be submitted by a corporation or business venture formed solely for the purpose of responding to this RFP, the above information shall be submitted for each individual within the said corporation, business venture, or partnership.

NOTE: THIS SECTION MUST BE FILLED OUT
AND RETURNED WITH THE PROPOSAL PACKAGE

Revenue Payable to KAFC and the Commonwealth. Bidders are to indicate in Section 1 below the annual rental Bidder will pay to KAFC and the Commonwealth for the term of the corresponding lease. Rental payable to KAFC and the Commonwealth shall be made monthly and shall be due on or before the close of business on the tenth day of each month. If the tenth day falls on a Saturday, Sunday or Commonwealth of Kentucky recognized holiday, the payment will be due on or before the close of business on the next business day.

Bidders also are to indicate in Section 2 below the proposed purchase price in the event the Bidder were to go forward with purchase of the Facility at the end of the lease term under the Agreement.

BIDDER FILL IN BLANKS AND RETURN:

Section 1 For the lease of the Kentucky Agricultural Finance Corporation's Facility in Owensboro, Kentucky, I propose to pay KAFC and the Commonwealth of Kentucky \$_____ per year as lease fee.

Note: The minimum lease payment shall equal no less than \$6,000 per year.

Section 2 At the end of the third year of the lease of the Kentucky Agricultural Finance Corporation's Facility in Owensboro, Kentucky, I propose an option price to purchase the Facility in the amount of \$_____.

Note: The minimum purchase price for the Facility shall be no less than \$450,000. Lease payments may not be applied toward purchase price.

(Bidder's Signature and Title)

(Bidder's Name and Title - Printed)

VI.
AUTHENTICATION OF BID AND AFFIDAVIT OF NON-COLLUSION
AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the Bidder (if the Bidder is an individual), a partner (if the Bidder is a partnership) or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Bidder is a corporation);
2. That the attached bid (or bids) covering Kentucky Agricultural Finance Corporation (KAFC) RFP# 081506 has been arrived at by the Bidder independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other lessee of materials, supplies, equipment or services described in the Invitation to Bid, designed to limit independent bidding or competition;
3. That the contents of the bid or bids have not been communicated by the Bidder or its employees or agents to any person not an employee or agent of the Bidder or its surety on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official opening of the bid or bids;
4. That the Bidder is legally entitled to enter into contracts with KAFC and the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.330 to 45A.340, 45A.990, 45A.164.390 or KRS 11A.040 of the Executive Branch Code of Ethics; and,
5. That I have fully informed myself regarding the accuracy of the statements made above.

(Bidder's Signature and Title)

(Bidder's Name and Title - Printed)

VII. NOTICE

1. Any agreement or collusion among Bidders or prospective Bidders which restrains, tends to restrain or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.
2. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), imprisonment for not less than one (1) year, nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars (\$10,000), nor more than twenty thousand dollars (\$20,000).

IMPORTANT - SIGNATURE REQUIRED BELOW

This proposal cannot be considered valid unless the Bidder signs it and prints or types his name, firm address, telephone number, and date in the spaces provided. Proposals signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the agency representative.

BIDDER/OFFEROR

SIGNED BY:

(Signature and Title)

FIRM:

ADDRESS: _____

CITY

STATE

ZIP CODE

AREA CODE: _____ TELEPHONE: _____

DATE: _____

IMPORTANT - THIS SECTION MUST BE READ, FILLED OUT,
AND RETURNED WITH THE PROPOSAL PACKAGE:

VIII.
STATEMENT OF FINAL DETERMINATION
OF VIOLATIONS PURSUANT TO KRS 45A.485

Pursuant to KRS 45A.485, the Bidder shall reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Bidder within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342.

For the purpose of complying with the provisions of KRS 45A.485, please list any final determination(s) of violation(s) of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which have been rendered against the Bidder within the five (5) years preceding the award of this contract. Please include the date of the determination and the state agency issuing the determination. (Please use extra sheets if necessary.)

KRS Violation

Date

State Agency

The Bidder is further notified that KRS 45A.485 requires that for the duration of this contract, the Bidder shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which apply to the Bidder's operations. KRS 45A.485 further provides that the Bidder's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, or failure to comply with the above-cited statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract, and the Bidder's disqualification from eligibility to bid or submit proposals to the Commonwealth for a period of two (2) years.

(Bidder's Signature and Title)

(Bidder's Name and Title - Printed)

IMPORTANT - THIS SECTION MUST BE READ, SIGNED, NOTARIZED, AND RETURNED WITH THE PROPOSAL PACKAGE:

RFP #: 081506

IX. REQUIRED AFFIDAVIT FOR BIDDERS OR OFFERORS

- A. In accordance with the provisions of KRS 45A.110 and KRS 45A.115, each bidder or offeror shall swear or affirm under penalty of perjury that:
- (1) neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and
 - (2) the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
- B. I also hereby swear and affirm under penalty of perjury that the entity bidding is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state; is duly registered with the Kentucky Secretary of State to the extent required by Kentucky law; and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.
- C. I hereby swear and affirm under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

I have fully informed myself regarding the accuracy of the statements made above.

SIGNATURE

Printed Name

Title

Date

Company Name

Address

Subscribed and sworn to before me by _____,
(Affiant) (Title)

of _____ this ____ day of _____, 20____.

(Company Name)

Notary Public

[*seal of notary*]

My commission expires:

The foregoing statement was sworn to me this _____ day
of _____, 20_____, by _____.

My Commission expires: _____ .
Notary Public

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

Legal Description of Property:

Beginning at an iron pin in the northwest right of way of Hwy 279 North said point being 30 feet from the centerline and approximately 0.31 miles south the intersection of KY 279 North and Griffith Station Road thence with the right of way of KY 279 North South 35 degrees, 53 minutes, 37 seconds West 351.25 feet, South 35 degrees, 12 minutes, 04 seconds West 155.34 feet, South 31 degrees, 18 minutes, 15 seconds West 101.11 feet, South 25 degrees, 51 minutes, 46 seconds West 123.11 feet and South 18 degrees, 16 minutes, 57 seconds West 63.78 feet; thence leaving the right of way and continuing with the Sara Gray McNulty property (DB 189, PG 197) South 34 degrees, 00 minutes, 00 seconds West 95.54 feet to an iron pin and cap; thence with the remaining James C. Ellis Estate Property North 56 degrees, 01 minutes, 28 seconds West 519.17 feet to an iron pin and cap, North 33 degrees, 58 minutes, 43 seconds East 886.65 feet to an iron pin and cap and South 55 degrees, 58 minutes, 12 seconds East 494.90 feet to the point of beginning and containing 10.02 acres, more or less, according to a survey by J.A. Pence PLS #2552 of Pence Engineering and Land Surveying on June 1, 2000, and being a part of the same property conveyed to James C. Ellis by deed dated September 16, 1935, which is of record in Deed Book 134, Page 496, in the Office of the Daviess County Court Clerk and shown on a plat of record in Plat Book 29, Page 187.

For Will of James C. Ellis, see Will Book N, Page 63, Office of the Daviess County Court Clerk.

And being the same property conveyed to West Kentucky Grower Cooperative, Inc., a Kentucky corporation by deed from James C. Ellis, III, and Yondell Bruce Embry, Co-Trustees of the James C. Ellis Estate Trust, dated March 19, 2002, and recorded on March 20, 2002, in Deed Book 748, Page 591, in the Office of the Court Clerk of Daviess County, Kentucky.

Parcel #28-9-1

